

BIRMINGHAM CITY COUNCIL

PUBLIC

Report to:	CABINET MEMBER FOR DEVELOPMENT, TRANSPORT AND THE ECONOMY JOINTLY WITH THE DEPUTY CHIEF EXECUTIVE
Report of: Date of Decision:	Director of Planning and Regeneration 9th September 2014
SUBJECT:	POLICY FOR MANAGING HOUSES IN MULTIPLE OCCUPATION IN THE PROPOSED ARTICLE 4 DIRECTION AREA
Key Decision: No	Relevant Forward Plan Ref: n/a
If not in the Forward Plan: (please "X" box)	Chief Executive approved <input type="checkbox"/> O&S Chairman approved <input type="checkbox"/>
Relevant Cabinet Member:	Councillor Tahir Ali (Development, Transport and the Economy)
Relevant O&S Chairman:	Councillor Victoria Quinn (Birmingham Economy and Transport)
Wards affected:	Selly Oak, Harborne and Edgbaston

1. Purpose of report:
<p>1.1 To seek approval for a Planning Policy Document for managing Houses in Multiple Occupation (HMO) within the proposed Article 4 Direction area covering parts of Selly Oak, Edgbaston and Harborne wards (Appendix 1).</p> <p>1.2 To seek authority to undertake public consultation exercise on the document.</p>

2. Decision(s) recommended:
<p>That the Cabinet Member for Development, Transport and the Economy jointly with the Deputy Chief Executive:-</p> <p>2.1 Note the content of the report setting out proposed policy and criteria for the Council to use in determining planning applications for Houses in Multiple Occupation in parts of Selly Oak, Harborne and Edgbaston wards.</p> <p>2.2 Authorise a period of public consultation on the draft Planning Policy Document to be carried out during September/October 2014.</p>

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3. Consultation

3.1 Internal

The draft Planning Policy Document has been reviewed by a cross team working group within Planning & Regeneration, representing interests from Planning Management, Planning Strategy, Regeneration and Planning Enforcement. Officers from the corporate Selly Oak working group have been consulted. Local Members have been consulted and support the policy document progressing for a period of public consultation. Legal Services and Financial Services officers have input to the report and agreed the content.

3.2 External

This report is seeking authority for external consultation on the draft Planning Policy Document, although as part of consultation on the making of the Article 4 Direction, groups and representatives made reference to the need for a specific HMO policy to be developed to operate in the Article 4 Direction area, should it be confirmed.

4. Compliance Issues:

4.1 Are the recommended decisions consistent with the Council's policies, plans and strategies?

These recommended decisions are consistent with the Council Plan, Unitary Development Plan, and the recently submitted Birmingham Development Plan. This Planning Policy Document will strengthen the guidance in these plans until such time as a Planning Management Development Plan Document is produced

4.2 Financial Implications

There are no financial or resource implications arising from this report.

4.3 Legal Implications

The Planning Policy Document is intended to assist decision makers in determining planning applications where a change of use of a single family dwelling to a HMO is proposed. It will be a material planning consideration in determining planning applications and is intended to be incorporated into the forthcoming Development Management DPD, thus eventually making it part of the Local development Framework.

4.4 Public Sector Equality Duty (see separate guidance note)

A screening exercise for an Equalities Assessment (EqA) has been carried out and concluded that a full assessment is not needed (Appendix 2).

5. Relevant background/chronology of key events:

- 5.1 On 21st November 2013 the Council authorised the making of a non-immediate Article 4 Direction covering parts of Selly Oak, Edgbaston and Harborne wards to help the Council better manage the growth of HMOs). The aim is to avoid over-concentration of such uses thus maintaining balanced communities.
- 5.2 Formal consultation on this proposal ran from 29th November 2013 to 31st January 2014 and a report is shortly to be taken to Cabinet outlining the results of this and seeking confirmation of the order. If approved this will remove permitted development rights for the change of use to a HMO (Class 4) from a dwelling (Class 3) within the defined area. The earliest date the direction can come into effect is 30th November 2014.
- 5.3 Following a review of the current location and percentage of known HMOs in Birmingham's wards, coupled with an analysis of percentage thresholds used in other local authorities and best practice advice, a 10% threshold for HMOs will be introduced. The threshold policy based approach tackles concentrations of HMO properties and identifies the point beyond which issues arising from concentrations become harder to manage and the government suggests communities become less balanced. While there is no formal definition of what this point is, there is a view that imbalance occurs at around 10% of the residential properties in an area.
- 5.4 It is therefore proposed that applications for new HMOs will be assessed against the proportion of existing properties in known HMO use within 100 metres of the planning application site. Applications which exceed the 10% threshold will be refused. As the Article 4 Direction area as a whole is well below this threshold, the policy does not prohibit further HMOs coming forward, but will lead to a more even spread of them across the Article 4 Direction area thus avoiding the physical, social and street management issues concentrations can bring.
- 5.5 If the location of a proposed HMO is found to be acceptable in terms of the threshold policy, the application will then be judged against the Council's existing policy criteria for determining HMOs as set out in the UDP and Supplementary Planning Guidance. These, however, are currently being reviewed and may be modified in the forthcoming Planning Management Development Plan Document.
- 5.6 A period of 6 weeks consultation will take place on this Planning Policy Document, following which a report will be made to Cabinet outlining the results of the public consultation, identifying any improvements or changes and recommending adoption of the policy. It will then come into force once the Article 4 Direction itself is confirmed.

6. Evaluation of alternative option(s):	
6.1	To do nothing would be to rely on planning policy guidance that does not contain a threshold restriction on the further growth and spread of C4 (small HMOs). This would not provide sufficient guidance to manage the growth of HMOs to prevent further over-concentration in the Article 4 Direction area.
6.2	To wait until the Development Management DPD is produced and formally adopted would either leave a period of time without detailed C4 HMO policies in place or cause a delay of the Article 4 Direction confirmation of up to another 12 months.
6.3	Alternative options would be to choose a different threshold such as 5% or 15%. Based on the evidence base within Birmingham, best practice established by other authorities and government guidance, a 10% threshold appears the most justifiable to defend at appeal. To vary this may jeopardise the overall success of the policy.

7. Reasons for Decision(s):	
7.1	To ensure adequate public consultation is undertaken on the policies and criteria to be used in the consideration of planning consent for change of use from C3 to C4 HMO or Sui Generis HMO in the Article 4 Direction area of Selly Oak, Harborne and Edgbaston.

Signatures	
Councillor Tahir Ali Cabinet Member for Development, Transport and the Economy	
.....	Dated:
Paul Dransfield Deputy Chief Executive	
.....	Dated:

List of Background Documents used to compile this Report:

List of Appendices accompanying this Report (if any):
1. Draft Planning Policy Document
2. Equality Assessment